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In re Application of : **OFFICE OF PETITIONS**
Chris Zegelin :
Application No. 10/705,277 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. A35583 : .

This is a decision on the petition under 37 CFR 1.137(a), which has been treated as a petition under 37 CFR 1.181, filed February 7, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice to File Missing Parts" (Notice) mailed February 18, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 19, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner contends the Notice was never received by applicant. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such, the holding of abandonment is withdrawn.

The \$500.00 petition fee, submitted February 7, 2005, will be refunded to deposit account no. 02-4377.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.



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